

PATENT

Atty Docket No.: 200308654-1

App. Ser. No.: 10/705,932

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the amendments above and the following remarks. Claims 1-24 are pending of which claims 1, 14, 18 and 22 are independent.

Claims 1-4 and 12-24 were rejected under 35 U.S.C. §102(e) as being anticipated by Mohan et al.(2005/0108368).

Claims 1, 14 and 18-21 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

These rejections are respectfully traversed for the reasons stated below.

Claims 5-11 were indicated as including allowable subject matter, but were objected to as being dependent on a rejected base claim.

Examiner Interview Conducted

Applicants' representative wishes to thank Examiner Ponikiewski and SPE Gafin for granting the examiner interview conducted on April 16, 2007. The rule 131 declaration filed in the previous response and the 101 rejection were discussed. In the final rejection, Examiner Ponikiewski indicated that the rule 131 declaration was insufficient because it failed to establish diligence because of the time gap between exhibits C and D, and also because the Applicants failed to give a clear explanation of the exhibits pointing out the facts relied upon by the Applicants. During the interview it was agreed that diligence is in fact established because diligence was shown from just prior to the effective date of Mohan et al., i.e., October 30, 2003, to the date of filing. Also, it was agreed that the invention disclosure, cited as Exhibit A, provides support for the claimed invention. For at least these reasons, it

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was agreed that the rule 131 declaration was sufficient to overcome the rejection of claims 1-4 and 12-24 under 35 U.S.C. §102(e) as being anticipated by Mohan et al.

With regard to the 101 rejection, it was agreed that amending independent claim 18 to recite "computer readable storage device" would overcome the rejection in light of the description in the specification on page 32, lines 20-24. It was also agreed that amending independent claims 1 and 14 to include language directed to storing the identified node would overcome the rejection.

Claim Rejection Under 35 U.S.C. §101

Claims 1, 14 and 18-21 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. The rejection stated that claims 1 and 14 do not specify an output. Claims 1 and 14 have been amended to recite a practical application of identifying samples to determine search results for a query. Accordingly, claims 1 and 14 are believed to be statutory.

Independent claim 18 has been amended as agreed during the interview to overcome the 101 rejection. Independent claim 1 has been amended to recite, "storing forwarding information for the identified first node of the first set of nodes likely storing information associated with objects stored in the peer-to-peer system that are relevant to the query." Independent claim 14 has been similarly amended. Support for this feature is at least provided on page 20, lines 12-13. In order for the node to forward the query to the identified node, it must inherently store forwarding/ routing information for the identified node. As discussed during the interview, storing information about the identified node is considered a

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useful result for a user. Thus, claims 1, 14 and 18-21 are believed to be directed to statutory subject matter.

Claim Rejection Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1-4 and 12-24 were rejected under 35 U.S.C. §102(e) as being anticipated by Mohan et al.

As discussed during the Examiner interview, it was agreed that the 131 declaration filed in the previous response overcomes this rejection. Accordingly, the rejection of claims 1-4 and 12-24 under 35 U.S.C. §102(e) as being anticipated by Mohan et al. is believed to be overcome, and these claims are believed to be allowable.

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Conclusion


In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: April 18, 2006

By


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